

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
State Bar No. 91740
3 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
4 Telephone: (415) 703-5556
Facsimile: (415) 703-5480
5 *Attorneys for Complainant*

6 **BEFORE THE**
DENTAL HYGIENE COMMITTEE OF CALIFORNIA
7 **DEPARTMENT OF CONSUMER AFFAIRS**
8 **STATE OF CALIFORNIA**

9 In the Matter of the Accusation Against:

Case No. **DHCC 2013-5**

10 **DARLA DIANE DALE**
2101 McClaskey Lane
11 Eureka, CA 95503

A C C U S A T I O N

12 **Dental Hygienist License No. RDH 11878**
13 **Dental Hygienist in Alternative Practice No. HAP 65**

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Lori Hubble (Complainant) brings this Accusation solely in her official capacity as
19 the Executive Officer of the Dental Hygiene Committee of California, Department of Consumer
20 Affairs.

21 2. On or about June 10, 1985, the Dental Hygiene Committee of California issued
22 Registered Dental Hygienist License Number RDH 11878 to Darla Diane Dale (Respondent).
23 The Registered Dental Hygienist License was in full force and effect at all times relevant to the
24 charges brought herein and will expire on February 28, 2015, unless renewed.

25 3. On or about January 6, 2005, the Dental Hygiene Committee of California issued
26 Registered Dental Hygienist in Alternative Practice Number HAP 65 to Darla Diane Dale
27 (Respondent). The Registered Dental Hygienist in Alternative Practice was in full force and
28

1 effect at all times relevant to the charges brought herein and will expire on February 28, 2015,
2 unless renewed.

3 JURISDICTION

4 4. This Accusation is brought before the Dental Hygiene Committee of California
5 (Committee), Department of Consumer Affairs, under the authority of the following laws. All
6 section references are to the Business and Professions Code unless otherwise indicated.

7 5. Section 490 of the Business and Professions Code provides, in pertinent part, that a
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a
9 crime substantially related to the qualifications, functions, or duties of the business or profession
10 for which the license was issued.

11 6. Section 493 of the Business and Professions Code states:

12 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
13 the department pursuant to law to deny an application for a license or to suspend or revoke a
14 license or otherwise take disciplinary action against a person who holds a license, upon the
15 ground that the applicant or the licensee has been convicted of a crime substantially related to the
16 qualifications, functions, and duties of the licensee in question, the record of conviction of the
17 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
18 and the board may inquire into the circumstances surrounding the commission of the crime in
19 order to fix the degree of discipline or to determine if the conviction is substantially related to the
20 qualifications, functions, and duties of the licensee in question.

21 7. Section 1902 of the Business and Professions Code, in pertinent part, states:

22 "For purposes of this article, the following definitions apply:

23 "(a) 'Committee' means the Dental Hygiene Committee of California.

24 "(b) 'Dental board' means the Dental Board of California.

25 . . .

26 8. Section 1949 of the Business and Professions Code states:

27 "A licensee may have his or her license revoked or suspended, or may be reprimanded or
28 placed on probation by the committee for unprofessional conduct, incompetence, gross

1 negligence, repeated acts of negligence in his or her profession, receiving a license by mistake, or
2 for any other cause applicable to the licensee provided in this article. The proceedings under this
3 article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part
4 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all the powers
5 granted therein."

6 9. Section 1950 of the Business and Professions Code states:

7 "(a) A licensee may have his or her license revoked or suspended, or may be reprimanded or
8 placed on probation by the committee, for conviction of a crime substantially related to the
9 licensee's qualifications, functions, or duties. The record of conviction or a copy certified by the
10 clerk of the court or by the judge in whose court the conviction occurred shall be conclusive
11 evidence of conviction.

12 "(b) The committee shall undertake proceedings under this section upon the receipt of a
13 certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a
14 plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related
15 to the licensee's qualifications, functions, or duties is deemed to be a conviction within the
16 meaning of this section.

17 "(c) The committee may reprimand a licensee or order a license suspended or revoked, or
18 placed on probation or may decline to issue a license, when any of the following occur:

19 "(1) The time for appeal has elapsed.

20 "(2) The judgment of conviction has been affirmed on appeal.

21 "(3) An order granting probation is made suspending the imposition of sentence,
22 irrespective of a subsequent order under any provision of the Penal Code, including, but not
23 limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of
24 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
25 accusation, information, or indictment."

26 10. Section 1952 of the Business and Professions Code, in pertinent part, states:

27 "It is unprofessional conduct for a person licensed under this article to do any of the
28 following:

1 . . .
2 "(b) Use a controlled substance, as defined in Division 10 (commencing with Section
3 11000) of the Health and Safety Code, or a dangerous drug as defined in Section 4022, or
4 alcoholic beverages or other intoxicating substances, to an extent or in a manner dangerous or
5 injurious to himself or herself, to any person, or the public to the extent that the use impairs the
6 licensee's ability to conduct with safety to the public the practice authorized by his or her license.

7 "(c) Be convicted of a charge of violating any federal statute or rules, or any statute or rule
8 of this state, regulating controlled substances, as defined in Division 10 (commencing with
9 Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Section 4022,
10 or be convicted of more than one misdemeanor, or any felony, involving the use or consumption
11 of alcohol or drugs, if the conviction is substantially related to the practice authorized by his or
12 her license.

13 "(1) The record of conviction or a copy certified by the clerk of the court or by the judge in
14 whose court the conviction is had, shall be conclusive evidence of a violation of this section. A
15 plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
16 conviction within the meaning of this section.

17 "(2) The committee may order the license suspended or revoked, or may decline to issue a
18 license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on
19 appeal, or when an order granting probation is made suspending imposition of sentence,
20 irrespective of a subsequent order under any provision of the Penal Code, including, but not
21 limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw his or her plea of
22 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
23 accusation, information, or indictment."

24 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

25 FIRST CAUSE FOR DISCIPLINE

26 (Conviction of a Crime)

27 11. Respondent is subject to disciplinary action under Business and Professions Code
28 section 1950(a) in that she was convicted of a crime substantially related to the qualifications,

1 functions, or duties of a registered dental hygienist and a registered dental hygienist in alternative
2 practice. The circumstances are as follows:

3 a. On or about August 13, 2009, in a criminal proceeding entitled the People of the State
4 of California v. Darla Diane Dale in Humboldt County Superior Court, Case No. CR093070, the
5 respondent was convicted following her plea of nolo contendere to violating Vehicle Code section
6 23152(a) driving under the influence of alcohol/drugs, misdemeanor.

7 b. On or about May 3, 2009, at about 0112 hours, a police officer from the Eureka Police
8 Department observed Respondent driving a vehicle without headlights. The officer followed
9 respondent's vehicle and prior to initiating a traffic stop; the officer observed respondent's vehicle
10 weaving side to side and it failed to remain in its lane. Upon contact with Respondent, the officer
11 smelled the odor of alcohol emitting from the vehicle and Respondent's breath. The officer
12 noticed that Respondent's eyes were red, watery and that her eye lids would frequently and slowly
13 close and her head and chin would dip downward as if she were going to lose consciousness. The
14 respondent admitted to the officer that she had consumed alcoholic beverages at a local bar. The
15 respondent failed to satisfactory complete the Field Sobriety Tests (FSTs) at the scene and she
16 refused to take a Preliminary Alcohol Screening (PAS) test. Based on the officer's observations of
17 respondent, he concluded the she was too intoxicated to drive and he arrested her for violating
18 Vehicle Code section 23152(a), driving under the influence of alcohol.

19 c. On or about August 13, 2009, the Respondent was sentenced to conditional probation
20 for 3 years, ordered to enroll and complete the first offender alcohol program, and ordered to pay
21 fees and a fine of \$2,493.00.

22 SECOND CAUSE FOR DISCIPLINE

23 (Conviction of a Crime)

24 12. Respondent is subject to disciplinary action under Business and Professions Code
25 section 1950(a) in that she was convicted of a crime substantially related to the qualifications,
26 functions, or duties of a registered dental hygienist and a registered dental hygienist in alternative
27 practice. The circumstances are as follows:
28

1 a. On or about February 13, 2012, in a criminal proceeding entitled the People of the
2 State of California v. Darla Diane Dale in Humboldt County Superior Court, Case No.
3 CR1205292, the respondent was convicted following her plea of nolo contendere to violating
4 Vehicle Code section 23152(a) driving under the influence of alcohol/drugs with a prior
5 conviction, a misdemeanor.

6 b. On or about October 7, 2012, at 0015 hours, an officer of the California Highway
7 Patrol arrived on the scene of a traffic collision in Cutten, California. The officer found
8 respondent sitting in the driver's seat of one of the vehicles involved in the collision. The
9 respondent admitted that she was driving the vehicle and admitted to the officer that she began
10 consuming alcoholic beverages from 5:00 p.m. until 12:00 a.m. The officer was able to administer
11 the eye examination of the Field Sobriety Tests (FSTs); however, due to Respondent's inability to
12 stand on her own due to her level of intoxication, the officer discontinued administering
13 additional FSTs. The respondent refused to submit to a Preliminary Alcohol Screening (PAS)
14 device test. Based on the respondent's inability to stand on her own, her red eyes, and the odor of
15 an alcoholic beverage emanating from her person, the officer arrested respondent for violating
16 Vehicle Code section 23152(a) driving under the influence of alcohol. Respondent agreed to
17 submit a blood sample for testing so she was taken to a local hospital for a blood draw. On
18 October 12, 2012, the analysis of Respondent's blood sample was reported as .21 percent BAC.

19 c. On or about February 13, 2012, the respondent was sentenced to conditional
20 probation for 3 years, ordered to serve 17 days in jail, ordered to attend and complete an 18 month
21 Multiple Offender Alcohol Program, ordered to install an ignition interlock device on her vehicle
22 for 1 year and was ordered to pay fines and fees in the amount of \$2,500.00.

23 THIRD CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct – Use of Alcohol/Drugs)

25 13. Respondent is subject to disciplinary action for unprofessional conduct under
26 Business and Professions Code section 1952(b) in that on or about May 3, 2009 and October 7,
27 2012, respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to
28

1 himself or herself, to any person, or the public to the extent that the use impairs the licensee's
2 ability to conduct with safety to the public as set forth in paragraphs 11 and 12, above.

3 FOURTH CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct – Alcohol/Drugs Related Conviction)

5 14. Respondent is subject to disciplinary action for unprofessional conduct under
6 Business and Professions Code section 1952(c) in that on or about August 13, 2009 and February
7 13, 2012 respondent was convicted of criminal offenses involving the use or consumption of
8 alcohol or drugs as set forth in paragraphs 11 and 12, above.

9
10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Dental Hygiene Committee of California issue a decision:

- 13 1. Revoking or suspending Registered Dental Hygienist License Number RDH 11878,
14 issued to Darla Diane Dale
- 15 2. Revoking or suspending Registered Dental Hygienist in Alternative Practice Number
16 HAP 65, issued to Darla Diane Dale;
- 17 3. Ordering Darla Diane Dale to pay the Dental Hygiene Committee of California the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code 125.3;
- 20 4. Taking such other and further action as deemed necessary and proper.
- 21
22

23 DATED: 2-25-14

Lori Hubble

24 LORI HUBBLE
25 Executive Officer
26 Dental Hygiene Committee of California
27 Department of Consumer Affairs
28 State of California
Complainant

SF2013404918
40888474.doc